

ASSEMBLY BILL

No. 1965

Introduced by Assembly Member Lieu

February 6, 2006

An act to add Section 23038 to the Financial Code, and to add Section 823.5 to the Military and Veterans Code, relating to deferred deposit transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1965, as introduced, Lieu. Deferred deposit transactions.

Existing law provides certain protections for members of the National Guard ordered into active state service by the Governor or active federal service by the President of the United States for emergency purposes, and for reservists called to active duty, as specified.

Existing law provides for the licensure and regulation of persons making deferred deposit transactions, which are transactions whereby a person defers depositing a customer's personal check until a specific date pursuant to a written agreement.

This bill would authorize service members and reservists, and their spouses, to defer payments on deferred deposit transactions, as provided.

This bill would prohibit persons making deferred deposit transactions from specified collection practices with respect to those deferred deposit transactions and would require those persons to honor repayment agreements that are negotiated, as specified.

This bill, by requiring members of the National Guard, reservists, and their spouses to provide information under penalty of perjury in order to defer payment on a deferred deposit transaction, expands the

scope of an existing crime, and thereby imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23038 is added to the Financial Code,
2 to read:

3 23038. Any licensee that defers payment on a deferred
4 deposit transaction, pursuant to Section 823.5 of the Military and
5 Veterans Code, shall not collect on the deferred deposit
6 transaction by garnishing any of the service member's military
7 pay or contact the service member's military superiors regarding
8 the transaction. The licensee shall honor the terms of any
9 repayment agreement negotiated through military counselors or
10 third-party credit counselors.

11 SEC. 2. Section 823.5 is added to the Military and Veterans
12 Code, to read:

13 823.5. (a) Subject to subdivision (b), in addition to any other
14 benefits provided by law and to the extent permitted by federal
15 law, any service member who is in military service, or the spouse
16 of that service member, may defer payments on any obligation
17 due on a deferred deposit transaction entered into pursuant to
18 Division 10 (commencing with Section 23000) of the Financial
19 Code, by the service member or the service member's spouse on
20 or after the effective date of the act adding this section.

21 (b) In order for the obligation or liability of a service member
22 or service member's spouse to be subject to this section, the
23 service member or service member's spouse or designee shall
24 deliver to the licensee:

25 (1) A letter signed by the service member or the service
26 member's spouse, under penalty of perjury, requesting a
27 deferment of financial obligations.

1 (2) If required by a financial institution, proof that the service
2 member's employer does not provide continuing income to the
3 service member while the service member is in military service,
4 including the service member's military pay, of more than 90
5 percent of the service member's monthly salary and wage income
6 earned before the call to military service.

7 (c) Upon request of the service member or the service
8 member's spouse or designee and within five working days of
9 that request, if applicable, the employer of a service member
10 shall furnish the letter or other comparable evidence showing that
11 the employer's compensation policy does not provide continuing
12 income to the service member, including the service member's
13 military pay, of more than 90 percent of the service member's
14 monthly salary and wage income earned before the call to
15 military service.

16 (d) The deferral period shall be the lesser of 180 days or the
17 period of active duty plus 60 calendar days and shall apply only
18 to those payments due subsequent to the notice provided to a
19 licensee as provided in subdivision (b).

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.